



DEPARTMENT OF TRANSPORTATION [4910-RY]

Federal Highway Administration

Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. §139 (l)(1). The actions relate to a proposed highway project, I-77 High Occupancy/Toll (HOT) lanes, from I-277 (Brookshire Freeway – Exit 11) to NC 150 (Exit 36), Mecklenburg and Iredell Counties, North Carolina. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. §139 (l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before March 28, 2014. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence W. Coleman, P. E., Preconstruction and Environment Director, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina, 27601-1418; Telephone: (919) 747-7014; e-mail: clarence.coleman@dot.gov. FHWA North Carolina Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). Mr. Richard W. Hancock., Project Development and Environmental Analysis Branch Manager, North Carolina Department of Transportation (NCDOT), 1548 Mail Service Center, Raleigh, North

Carolina 27699-1548; Telephone (919) 707-6000, email: rwhancock@dot.state.nc.us.

NCDOT - Project Development and Environmental Analysis Branch Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency action subject to 23 U.S.C. § 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of North Carolina: I-77 High Occupancy/Toll (HOT) lanes, Federal Aid No. NHS-077-1(210), NHF-077-1(209)9, and IMF-1(183)299 from I-277 (Brookshire Freeway – Exit 11) to NC 150 (Exit 36) in the city and towns of Charlotte, Huntersville, Cornelius, and Davidson, Mecklenburg County, North Carolina and the Town of Mooresville in Iredell County, North Carolina. The project is also known as State Transportation Improvement Program (STIP) Projects I-3311C, I-5405, and I-4750AA. The project is approximately 26 miles long and includes the following actions:

- 1) I-3311C – Construct two HOT lanes along I-77 from just north of the I-77/I-85 interchange (connecting to I-5405 HOT lane project) to and along I-277
 - a. Southbound I-77 – Construct one HOT lane from the southern terminus of the existing southbound HOT lane (south of I-85) to I-277; construct an additional HOT lane southbound from the southern terminus of I-5405 (north of I-85/I-77 interchange) to I-277.
 - b. Northbound I-77 – Construct two HOT lanes northbound from I-277 to northbound southern terminus of I-5405 (north of I-85).

- c. Both directions of I-277 – Construct one HOT lane in each direction from I-77 to North Brevard Street (with HOT lane designation beginning and ending at North Tryon Street).
- 2) I-5405 – I-77 from I-277 (Brookshire Freeway) to Exit 28; convert existing HOV lanes to HOT lanes and extend northward to Exit 28. Add additional HOT lane in each direction beginning at I-85 to Exit 28 for a total of 2 HOT lanes in each direction.
- 3) I-4750AA – Construct one HOT lane in each direction along I-77 from Exit 28 (connecting to I-5405 HOT lane project) to Brawley School Road (Exit 35), with construction ending approximately 5,500 feet north of the NC 150 bridge (Exit 36). Northbound and southbound HOT designations begin and end at Brawley School Road (Exit 35).
- 4) Designation of HOT lanes as HOT 3+.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Finding of No Significant Impact (FONSI) for the project, approved on October 16, 2013, and in other documents in the FHWA administrative record. The FONSI and other documents in the FHWA administrative record file are available by contacting the FHWA or NCDOT at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

- 1. *General*: National Environmental Policy Act (NEPA) [42 USC 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
- 2. *Air*: Clean Air Act [42 U.S.C. 7401-7671(q)].

3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife*: Endangered Species Act [16 USC 1531-1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)-757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 et seq.].
5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].
6. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].
7. *Wetlands and Water Resources*: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251-1377]; Coastal Barrier Resources Act [16 U.S.C. 3501-3510]; Coastal Zone Management Act [16 U.S.C. 1451-1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA-21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

8. *Hazardous Materials*: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA; 42 U.S.C. 11011 et seq.); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901-6992(k)].
9. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species; and E.O. 13186 – Responsibilities of Federal Agencies to Protect Migratory Birds.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. §139 (l)(1)

Issued on: October 23, 2013

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